

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/541,654 **Attorney Docket:** DP-309749
Filing Date: July 7, 2005
Applicant: Joachim Kupe
Group Art Unit: 3748 **Confirmation No:** 3500
Examiner: Nguyen, Tu Minh
Title: SYSTEM AND METHOD OF NOX ABATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO OFFICE ACTION MAILED MARCH 17, 2009

Sir:

This is Applicants' response to the Office Action mailed March 17, 2009 requiring election from among six species represented by Figure 3, Figure 4, Figure 5, Figure 6, Figure 7, and Figure 8. Applicants provisionally elect the species of represented by Figure 6, and submit that claims 1-26 and 28-40 read on this species.

In addition, Applicants respectfully traverse the requirement for election. The Office Action asserts that the requirement is proper because the various species are mutually exclusive. Applicants respectfully disagree, and submit that the various species are not in a conventional mutually exclusive species relationship. By way of illustration, a conventional mutually exclusive species relationship would be, for example, a species A that is a "platform having a

circular perimeter" and a species B that is a "platform having a rectangular perimeter". The platform perimeter cannot be both circular and rectangular, so the species A and B would be mutually exclusive. Applicants' claims to the species identified by the Office Action are not in such a mutually exclusive relationship. For example, the difference between claim 41 (Figure 7) and claim 1 (Figures 3, 4, or 6) is that claim 41 requires an off-line membrane capable of inhibiting oxygen transport whereas claim 1 requires an in-line NOx adsorber. However, claim 41 does not exclude having an in-line NOx adsorber nor does claim 1 exclude having an off-line membrane, and the definitions of these components do not inherently exclude one another as do the circular and rectangular perimeters of the above example. In other words, both claims could read on an embodiment having both an in-line NOx adsorber and an off-line membrane, so they are not mutually exclusive. Similarly, the NOx adsorber limitations in claim 27 do not exclude the claims reading on Applicants' elected species and the limitations in the claims reading on Applicants' elected species do not exclude claim 27. Accordingly, Applicants respectfully request that the species election requirement be withdrawn.

The Commissioner is hereby authorized to charge any fees associated with this communication to Deposit Account No. 50-0831.

Respectfully submitted,

/Paul Marshall/

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